



General Assembly

**Substitute Bill No. 665**

February Session, 2006

\* SB00665PD 041906 \*

**AN ACT RESTRICTING THE USE OF EMINENT DOMAIN AND  
AUTHORIZING MUNICIPALITIES TO ESTABLISH SEPARATE RATES  
OF TAXATION FOR REAL ESTATE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-125 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage and*  
3 *applicable to property acquired on or after said date*):

4 As used in this chapter:

5 [(a)] (1) "Redevelopment" means improvement by the rehabilitation  
6 or demolition of structures, by the construction of new structures,  
7 improvements or facilities, by the location or relocation of streets,  
8 parks and utilities, by replanning or by two or more of these methods;

9 [(b)] (2) "Redevelopment area" means an area within the state which  
10 is deteriorated, [deteriorating,] substandard or detrimental to the  
11 safety, health, morals or welfare of the community. An area may  
12 consist partly or wholly of vacant or unimproved land or of land with  
13 structures and improvements thereon, and may include structures not  
14 in themselves substandard or insanitary which are found to be  
15 essential to complete an adequate unit of development, if the  
16 redevelopment area is deteriorated, [deteriorating,] substandard or  
17 detrimental. [An area may include properties not contiguous to each

18 other.] An area may include all or part of the territorial limits of any  
19 fire district, sewer district, fire and sewer district, lighting district,  
20 village, beach or improvement association or any other district or  
21 association, wholly within a town and having the power to make  
22 appropriations or to levy taxes, whether or not such entity is chartered  
23 by the General Assembly;

24 [(c)] (3) A "redevelopment plan" [shall include: (1)] means a plan  
25 that includes: (A) A description of the redevelopment area and the  
26 condition, type and use of the structures therein; [(2)] (B) the location  
27 and extent of the land uses proposed for and within the area, such as  
28 housing, recreation, business, industry, schools, civic activities, open  
29 spaces or other categories of public and private uses; [(3)] (C) a  
30 determination whether or not the proposed land use for each property  
31 is for economic development; (D) the location and extent of streets and  
32 other public utilities, facilities and works within the area; [(4)] (E)  
33 schedules showing the number of families displaced by the proposed  
34 improvement, the method of temporary relocation of such families and  
35 the availability of sufficient suitable living accommodations at prices  
36 and rentals within the financial reach of such families and located  
37 within a reasonable distance of the area from which they are displaced;  
38 [(5)] (F) present and proposed zoning regulations in the  
39 redevelopment area; [(6)] and (G) any other detail including financial  
40 aspects of redevelopment which, in the judgment of the  
41 redevelopment agency authorized herein, is necessary to give it  
42 adequate information. The plan shall also include a preliminary  
43 statement describing the process for acquisition of each parcel of real  
44 property;

45 [(d)] (4) "Planning agency" means the existing city or town plan  
46 commission or, if such agency does not exist or is not created, the  
47 legislative body or agency designated by it;

48 [(e)] (5) "Redeveloper" means any individual, group of individuals  
49 or corporation or any municipality or other public agency including  
50 any housing authority established pursuant to chapter 128;

51     [(f)] (6) "Real property" means land, subterranean or subsurface  
52 rights, structures, any and all easements, air rights and franchises and  
53 every estate, right or interest therein;

54     (7) "Economic development" means any land use that increases tax  
55 revenues, the tax base, employment or general economic health and  
56 does not result in (A) the transfer of land to public ownership, (B) the  
57 transfer of land to a railroad, (C) the transfer of property to a private  
58 entity when eminent domain will remove a threat to public health or  
59 safety such as public nuisances or structures that are beyond repair or  
60 unfit for human habitation or use, (D) the acquisition of abandoned  
61 property, or (E) the lease of property to private entities for an  
62 accessory use in a public project. "Economic development" includes,  
63 but is not limited to, an industrial purpose or a business purpose, as  
64 defined in section 8-187, as amended by this act.

65     Sec. 2. Section 8-127 of the general statutes is repealed and the  
66 following is substituted in lieu thereof (*Effective from passage and*  
67 *applicable to property acquired on or after said date*):

68     The redevelopment agency may prepare, or cause to be prepared, a  
69 redevelopment plan and any redeveloper may submit a  
70 redevelopment plan to the redevelopment agency, and such agency  
71 shall immediately transmit such plan to the planning agency of the  
72 municipality for its study. The planning agency may make a  
73 comprehensive or general plan of the entire municipality as a guide in  
74 the more detailed and precise planning of redevelopment areas. Such  
75 plan and any modifications and extensions thereof shall show the  
76 location of proposed redevelopment areas and the general location and  
77 extent of use of land for housing, business, industry, communications  
78 and transportation, recreation, public buildings and such other public  
79 and private uses as are deemed by the planning agency essential to the  
80 purpose of redevelopment. Appropriations by the municipality of any  
81 amount necessary are authorized to enable the planning agency to  
82 make such comprehensive or general plan. The redevelopment agency  
83 shall request the written opinion of the planning agency on all

84 redevelopment plans prior to approving such redevelopment plans.  
85 Before approving any redevelopment plan, the redevelopment agency  
86 shall hold a public hearing thereon, notice of which shall be published  
87 at least twice in a newspaper of general circulation in the municipality,  
88 the first publication of notice to be not less than two weeks before the  
89 date set for the hearing. At least thirty-five days prior to the public  
90 hearing the redevelopment agency shall post the draft plan on the  
91 Internet web site of the redevelopment agency, if any. The  
92 redevelopment agency may approve any such redevelopment plan if,  
93 following such hearing, it finds that: [(a)] (1) The area in which the  
94 proposed redevelopment is to be located is a redevelopment area; [(b)]  
95 (2) the carrying out of the redevelopment plan will result in materially  
96 improving conditions in such area; [(c)] (3) sufficient living  
97 accommodations are available within a reasonable distance of such  
98 area or are provided for in the redevelopment plan for families  
99 displaced by the proposed improvement, at prices or rentals within the  
100 financial reach of such families; and [(d)] (4) the redevelopment plan is  
101 satisfactory as to site planning, relation to the comprehensive or  
102 general plan of the municipality and, except when the redevelopment  
103 agency has prepared the redevelopment plan, the construction and  
104 financial ability of the redeveloper to carry it out. No redevelopment  
105 plan for a project which consists predominantly of residential facilities  
106 shall be approved by the redevelopment agency in any municipality  
107 having a housing authority organized under the provisions of chapter  
108 128 except with the approval of such housing authority. The approval  
109 of a redevelopment plan may be given by the legislative body or by  
110 such agency as it designates to act in its behalf.

111 Sec. 3. Section 8-128 of the general statutes is repealed and the  
112 following is substituted in lieu thereof (*Effective from passage and*  
113 *applicable to property acquired on or after said date*):

114 (a) Within a reasonable time after its approval of the redevelopment  
115 plan as hereinbefore provided, the redevelopment agency may  
116 proceed with the acquisition or rental of real property by purchase,  
117 lease, exchange or gift. The redevelopment agency may acquire real

118 property by eminent domain with the approval of the legislative body  
119 of the municipality and in accordance with the provisions of sections 8-  
120 129 to 8-133, inclusive, and this section. The legislative body in its  
121 approval of a project under section 8-127 shall specify the time within  
122 which real property is to be acquired. There shall be a separate vote on  
123 the acquisition of each parcel to be acquired in accordance with the  
124 redevelopment plan. No parcel of real property may be acquired by  
125 eminent domain more than five years after approval of the  
126 redevelopment plan unless the redevelopment agency submits  
127 documentation to the legislative body sufficient for such legislative  
128 body to determine that acquisition of such parcel is necessary to  
129 implement the redevelopment plan. Notwithstanding the provisions of  
130 this section, no parcel of real property may be acquired by eminent  
131 domain (1) for economic development, or (2) if an owner-occupied  
132 dwelling unit that complies with local building and zoning  
133 requirements is located on such parcel. The time for acquisition may be  
134 extended by the legislative body in accordance with section 48-6, upon  
135 request of the redevelopment agency, provided the owner of the real  
136 property consents to such request. Real property may be acquired  
137 previous to the adoption or approval of the project area redevelopment  
138 plan, provided the property acquired shall be located within an area  
139 designated on the general plan as an appropriate redevelopment area  
140 or within an area whose boundaries are defined by the planning  
141 commission as an appropriate area for a redevelopment project, and  
142 provided such acquisition shall be authorized by the legislative body.  
143 The redevelopment agency may clear, repair, operate or insure such  
144 property while it is in its possession or make site improvements  
145 essential to preparation for its use in accordance with the  
146 redevelopment plan.

147 (b) If real property acquired by eminent domain on or after the  
148 effective date of this section is not used for the purpose for which it  
149 was acquired or for some other public use not more than five years  
150 after such acquisition, the property shall be offered for sale to the  
151 person from whom the property was acquired, or the person's known

152 or ascertainable heirs, successors or assigns, if any, for a price not  
153 greater than the value documented in the recorded findings, less the  
154 value of any structures or improvements removed from the property  
155 by the redevelopment agency or its designee after the real property  
156 was acquired. If such person, heirs, successors or assigns do not  
157 purchase the property, the development agency may retain ownership  
158 of the property or sell the property to any other person.

159       Sec. 4. Section 8-129 of the general statutes is repealed and the  
160 following is substituted in lieu thereof (*Effective from passage and*  
161 *applicable to property acquired on or after said date*):

162       (a) The redevelopment agency shall determine the compensation to  
163 be paid to the persons entitled thereto for [such] real property [and] to  
164 be taken pursuant to section 8-128, as amended by this act. The amount  
165 of compensation may exceed the fair market value of the real property  
166 and in determining such amount the redevelopment agency may  
167 consider any factor it deems relevant, including, but not limited to, the  
168 number of years of ownership and lost good will. As used in this  
169 subsection, "good will" means the benefits that accrue to a business  
170 from its location, reputation for dependability, skill or quality and any  
171 other circumstances resulting in probable retention of old or  
172 acquisition of new patronage.

173       (b) The redevelopment agency shall file a statement of  
174 compensation, containing a description of the property to be taken and  
175 the names of all persons having a record interest therein and setting  
176 forth the amount of such compensation, and a deposit as provided in  
177 section 8-130, with the clerk of the superior court for the judicial  
178 district in which the property affected is located. Upon filing such  
179 statement of compensation and deposit, the redevelopment agency  
180 shall forthwith cause to be recorded, in the office of the town clerk of  
181 each town in which the property is located, a copy of such statement of  
182 compensation, such recording to have the same effect and to be treated  
183 the same as the recording of a lis pendens, and shall forthwith give

184 notice, as provided in this section, to each person appearing of record  
185 as an owner of property affected thereby and to each person appearing  
186 of record as a holder of any mortgage, lien, assessment or other  
187 encumbrance on such property or interest therein [(a)] (1) in the case of  
188 any such person found to be residing within this state, by causing a  
189 copy of such notice, with a copy of such statement of compensation, to  
190 be served upon each such person by a state marshal, constable or  
191 indifferent person, in the manner set forth in section 52-57, as  
192 amended, for the service of civil process, and [(b)] (2) in the case of any  
193 such person who is a nonresident of this state at the time of the filing  
194 of such statement of compensation and deposit or of any such person  
195 whose whereabouts or existence is unknown, by mailing to each such  
196 person a copy of such notice and of such statement of compensation,  
197 by registered or certified mail, directed to his last-known address, and  
198 by publishing such notice and such statement of compensation at least  
199 twice in a newspaper published in the judicial district and having daily  
200 or weekly circulation in the town in which such property is located.  
201 The redevelopment agency shall provide each such person with a copy  
202 of each appraisal of the property prepared for such agency. Any such  
203 published notice shall state that it is notice to the widow or widower,  
204 heirs, representatives and creditors of the person holding such record  
205 interest, if such person is dead. If, after a reasonably diligent search, no  
206 last-known address can be found for any interested party, an affidavit  
207 stating such fact, and reciting the steps taken to locate such address,  
208 shall be filed with the clerk of the superior court and accepted in lieu  
209 of mailing to the last-known address. Not less than [twelve] forty-five  
210 days or more than ninety days after such notice and such statement of  
211 compensation have been so served or so mailed and first published,  
212 the redevelopment agency shall file with the clerk of the superior court  
213 a return of notice setting forth the notice given and, upon receipt of  
214 such return of notice, such clerk shall, without any delay or  
215 continuance of any kind, issue a certificate of taking setting forth the  
216 fact of such taking, a description of all the property so taken and the  
217 names of the owners and of all other persons having a record interest  
218 therein. The redevelopment agency shall cause such certificate of

219 taking to be recorded in the office of the town clerk of each town in  
220 which such property is located. Upon the recording of such certificate,  
221 title to such property in fee simple shall vest in the municipality, and  
222 the right to just compensation shall vest in the persons entitled thereto.  
223 At any time after such certificate of taking has been so recorded, the  
224 redevelopment agency may repair, operate or insure such property  
225 and enter upon such property, and take any action that is proposed  
226 with regard to such property by the project area redevelopment plan.  
227 The notice referred to above shall state that [(1)] (A) not less than  
228 [twelve] forty-five days or more than ninety days after service or  
229 mailing and first publication thereof, the redevelopment agency shall  
230 file, with the clerk of the superior court for the judicial district in which  
231 such property is located, a return setting forth the notice given, [(2)] (B)  
232 upon receipt of such return, such clerk shall issue a certificate for  
233 recording in the office of the town clerk of each town in which such  
234 property is located, [(3)] (C) upon the recording of such certificate, title  
235 to such property shall vest in the municipality, the right to just  
236 compensation shall vest in the persons entitled thereto and the  
237 redevelopment agency may repair, operate or insure such property  
238 and enter upon such property and take any action that may be  
239 proposed with regard thereto by the project area redevelopment plan,  
240 and [(4)] (D) such notice shall bind the widow or widower, heirs,  
241 representatives and creditors of each person named therein who then  
242 or thereafter may be dead. When any redevelopment agency acting on  
243 behalf of any municipality has acquired or rented real property by  
244 purchase, lease, exchange or gift in accordance with the provisions of  
245 this section, or in exercising its right of eminent domain has filed a  
246 statement of compensation and deposit with the clerk of the superior  
247 court and has caused a certificate of taking to be recorded in the office  
248 of the town clerk of each town in which such property is located as  
249 provided in this section, any judge of such court may, upon  
250 application and proof of such acquisition or rental or such filing and  
251 deposit and such recording, order such clerk to issue an execution  
252 commanding a state marshal to put such municipality and the  
253 redevelopment agency, as its agent, into peaceable possession of the



254 property so acquired, rented or condemned. The provisions of this  
255 section shall not be limited in any way by the provisions of chapter  
256 832.

257 Sec. 5. Section 8-187 of the general statutes is repealed and the  
258 following is substituted in lieu thereof (*Effective from passage and*  
259 *applicable to property acquired on or after said date*):

260 As used in this chapter, (1) "municipality" means a town, city,  
261 consolidated town and city or consolidated town and borough; (2)  
262 "legislative body" means (A) the board of selectmen in a town that  
263 does not have a charter, special act or home rule ordinance relating to  
264 its government, or (B) the council, board of aldermen, representative  
265 town meeting, board of selectmen or other elected legislative body  
266 described in a charter, special act or home rule ordinance relating to  
267 government in a city, consolidated town and city, consolidated town  
268 and borough or a town having a charter, special act, consolidation  
269 ordinance or home rule ordinance relating to its government; (3)  
270 "development agency" means the agency designated by a municipality  
271 under section 8-188 through which the municipality may exercise the  
272 powers granted under this chapter; (4) "development project" means a  
273 project conducted by a municipality for the assembly, improvement  
274 and disposition of land or buildings or both to be used principally for  
275 industrial or business purposes and includes vacated commercial  
276 plants; (5) "vacated commercial plants" means buildings formerly used  
277 principally for business or industrial purposes of which more than fifty  
278 per cent of the usable floor space is, or which it is anticipated, within  
279 eighteen months, shall be, unused or substantially underutilized; (6)  
280 "project area" means the area within which the development project is  
281 located; (7) "commissioner" means the Commissioner of Economic and  
282 Community Development; (8) "planning commission" means the  
283 planning and zoning commission designated pursuant to section 8-4a  
284 or the planning commission created pursuant to section 8-19; (9) "real  
285 property" means land, subterranean or subsurface rights, structures,  
286 any and all easements, air rights and franchises and every estate, right  
287 or interest therein; [and] (10) "business purpose" includes, but is not

288 limited to, any commercial, financial or retail enterprise and includes  
289 any enterprise which promotes tourism and any property that  
290 produces income; and (11) "economic development" means any land  
291 use that increases tax revenues, the tax base, employment or general  
292 economic health and that does not result in (A) the transfer of land to  
293 public ownership, (B) the transfer of land to a railroad, (C) the transfer  
294 of property to a private entity when eminent domain will remove a  
295 threat to public health or safety such as public nuisances or structures  
296 that are beyond repair or unfit for human habitation or use, (D) the  
297 acquisition of abandoned property, or (E) the lease of property to  
298 private entities for an accessory use in a public project and includes an  
299 industrial purpose or a business purpose.

300 Sec. 6. Section 8-189 of the general statutes is repealed and the  
301 following is substituted in lieu thereof (*Effective from passage and*  
302 *applicable to property acquired on or after said date*):

303 The development agency may initiate a development project by  
304 preparing a project plan therefor in accordance with regulations of the  
305 commissioner. The project plan shall meet an identified public need  
306 and include: [(a)] (1) A legal description of the land within the project  
307 area; [(b)] (2) a description of the present condition and uses of such  
308 land or building; [(c)] (3) a description of the process utilized by the  
309 agency to prepare the plan along with alternative approaches  
310 considered to achieve project objectives; (4) a description of the types  
311 and locations of land uses or building uses proposed for the project  
312 area; [(d)] (5) a description of the types and locations of present and  
313 proposed streets, sidewalks and sanitary, utility and other facilities  
314 and the types and locations of other proposed site improvements; [(e)]  
315 (6) statements of the present and proposed zoning classification and  
316 subdivision status of the project area and the areas adjacent to the  
317 project area; [(f)] (7) a plan for relocating project-area occupants; [(g)]  
318 (8) a financing plan; [(h)] (9) an administrative plan; [(i)] (10) a  
319 marketability and proposed land-use study or building use study if  
320 required by the commissioner; [(j)] (11) appraisal reports and title  
321 searches; [(k)] (12) a statement of public benefits including, but not

322 limited to, (A) the number of jobs which the development agency  
323 anticipates would be created by the project and the number and types  
324 of existing housing units in the municipality in which the project  
325 would be located, and in contiguous municipalities, which would be  
326 available to employees filling such jobs; (B) an estimate of the amount  
327 of local tax revenue to be generated by the project; (C) a description of  
328 infrastructure improvements, including public access, facilities or use;  
329 (D) a description of any blight remediation or environmental  
330 remediation; (E) a description of any aesthetic improvements to be  
331 generated by the project; (F) a description of the project's role in  
332 increasing or sustaining market value of land in the municipality; (G) a  
333 description of the project's role in assisting residents of the  
334 municipality to improve their standard of living; and (H) a statement  
335 of the project's role in maintaining or enhancing the competitiveness of  
336 the municipality; (13) a determination whether or not the proposed  
337 land is to be used for economic development; and [(I)] (14) findings  
338 that the land and buildings within the project area will be used  
339 principally for industrial or business purposes; that the plan is in  
340 accordance with the plan of development for the municipality adopted  
341 by its planning commission under section 8-23, as amended, and the  
342 plan of development of the regional planning agency adopted under  
343 section 8-35a, as amended, if any, for the region within which the  
344 municipality is located; that the plan is not inimical to [any] the state  
345 plan of conservation and development adopted under chapter 297 and  
346 any other state-wide planning program objectives of the state or state  
347 agencies as coordinated by the Secretary of the Office of Policy and  
348 Management; that the project will contribute to the economic welfare  
349 of the municipality and the state; and that to carry out and administer  
350 the project, public action under this chapter is required. The plan shall  
351 also include a preliminary statement describing the process for  
352 acquisition of each parcel of real property. Any plan which has been  
353 prepared by a redevelopment agency under chapter 130 may be  
354 submitted by the development agency to the legislative body and to  
355 the commissioner in lieu of a plan initiated and prepared in accordance  
356 with this section, provided all other requirements of this chapter for

357 obtaining the approval of the commissioner of the project plan are  
358 satisfied.

359 Sec. 7. Section 8-191 of the general statutes is repealed and the  
360 following is substituted in lieu thereof (*Effective from passage and*  
361 *applicable to property acquired on or after said date*):

362 (a) Before the development agency adopts a plan for a development  
363 project, (1) the planning commission of the municipality shall find that  
364 the plan is in accord with the plan of development for the  
365 municipality; and (2) the regional planning agency, if any, for the  
366 region within which such municipality is located shall find that such  
367 plan is in accord with the plan of development for such region, or if  
368 such agency fails to make a finding concerning said plan within thirty-  
369 five days of receipt thereof by such agency, it shall be presumed that  
370 such agency does not disapprove of such plan; and (3) the  
371 development agency shall hold at least one public hearing thereon. At  
372 least thirty-five days prior to any public hearing the development  
373 agency shall post the draft plan on the Internet web site of the  
374 development agency, if any. Upon approval by the development  
375 agency, the agency shall submit such plan to the legislative body  
376 which shall vote to approve or disapprove the plan. After approval of  
377 the plan by the legislative body, the development agency shall submit  
378 the plan for approval to the commissioner. Notice of the time, place  
379 and subject of any public hearing held under this section shall be  
380 published once in a newspaper of general circulation in such town,  
381 such publication to be made not less than one week nor more than  
382 three weeks prior to the date set for the hearing. In the event the  
383 commissioner requires a substantial modification of the project plan  
384 before giving approval, then upon the completion of such modification  
385 such plan shall first have a public hearing and then be approved by the  
386 development agency and the legislative body. Any legislative body,  
387 agency or commission in approving a plan for a development project  
388 shall specifically approve the findings made therein.

389 (b) The provisions of subsection (a) of this section with respect to

390 submission of a development project to and approval by the  
391 commissioner shall not apply to a project for which no grant has been  
392 made under section 8-190 and no application for a grant is to be made  
393 under section 8-195.

394 Sec. 8. Section 8-193 of the general statutes is repealed and the  
395 following is substituted in lieu thereof (*Effective from passage and*  
396 *applicable to property acquired on or after said date*):

397 (a) After approval of the development plan as provided in this  
398 chapter, the development agency may proceed by purchase, lease,  
399 exchange or gift with the acquisition or rental of real property within  
400 the project area and real property and interests therein for rights-of-  
401 way and other easements to and from the project area. The  
402 development agency may, with the approval of the legislative body,  
403 and in the name of the municipality, acquire by eminent domain real  
404 property located within the project area and real property and interests  
405 therein for rights-of-way and other easements to and from the project  
406 area, in the same manner that a redevelopment agency may acquire  
407 real property under sections 8-128 to 8-133, inclusive, as amended by  
408 this act, as if said sections specifically applied to development  
409 agencies. Notwithstanding the provisions of this section, no parcel of  
410 real property may be acquired by eminent domain (1) for economic  
411 development, or (2) if an owner-occupied dwelling unit that complies  
412 with local building and zoning requirements is located on such parcel.  
413 There shall be a separate vote on the acquisition of each parcel to be  
414 acquired in accordance with the development plan. No parcel of real  
415 property may be acquired by eminent domain more than five years  
416 after the approval of the development plan unless the development  
417 agency submits documentation to the legislative body sufficient for  
418 such legislative body to determine that acquisition of such parcel is  
419 necessary to implement the development plan. The development  
420 agency may, with the approval of the legislative body and, of the  
421 commissioner if any grants were made by the state under section 8-190  
422 or 8-195 for such development project, and in the name of such  
423 municipality, transfer by sale or lease at fair market value or fair rental

424 value, as the case may be, the whole or any part of the real property in  
425 the project area to any person, in accordance with the project plan and  
426 such disposition plans as may have been determined by the  
427 commissioner.

428 (b) A development agency shall have all the powers necessary or  
429 convenient to undertake and carry out development plans and  
430 development projects, including the power to clear, demolish, repair,  
431 rehabilitate, operate, or insure real property while it is in its  
432 possession, to make site improvements essential to the preparation of  
433 land for its use in accordance with the development plan, to install,  
434 construct or reconstruct streets, utilities and other improvements  
435 necessary for carrying out the objectives of the development project,  
436 and, in distressed municipalities, as defined in section 32-9p, to lend  
437 funds to businesses and industries in a manner approved by the  
438 commissioner.

439 (c) If real property acquired by eminent domain on or after the  
440 effective date of this section is not used for the purpose for which it  
441 was acquired or for some other public use not more than five years  
442 after such acquisition, the property shall be offered for sale to the  
443 person from whom the property was acquired, or the person's known  
444 or ascertainable heirs, successors or assigns, if any, for a price not  
445 greater than the value documented in the recorded findings, less the  
446 value of any structures or improvements removed from the property  
447 by the development agency or its designee after the real property was  
448 acquired. If such person, heirs, successors or assigns do not purchase  
449 the property, the development agency may retain ownership of the  
450 property or sell the property to any other person.

451 Sec. 9. (NEW) (*Effective July 1, 2006*) (a) The Secretary of the Office of  
452 Policy and Management shall establish a grant program to reimburse  
453 any person who owns property that was acquired by eminent domain  
454 under section 8-128 or 8-193 of the general statutes, as amended by this  
455 act, for two-thirds of the reasonable cost, including attorney's fees,  
456 incurred by such owner in any legal action contesting such acquisition.

457 Grants shall be paid only upon final disposition of the legal action.

458 (b) The Secretary of the Office of Policy and Management shall  
459 adopt regulations, in accordance with the provisions of chapter 54 of  
460 the general statutes, for the administration of this section. Such  
461 regulations shall include provisions for application for grants and  
462 eligibility and documentation of costs.

463 Sec. 10. Subparagraph (A) of subdivision (3) of subsection (c) of  
464 section 7-148 of the general statutes is repealed and the following is  
465 substituted in lieu thereof (*Effective from passage and applicable to*  
466 *property acquired on or after said date*):

467 (3) (A) Take or acquire by gift, purchase, grant, including any grant  
468 from the United States or the state, bequest or devise and hold,  
469 condemn, lease, sell, manage, transfer, release and convey such real  
470 and personal property or interest therein absolutely or in trust as the  
471 purposes of the municipality or any public use [or purpose] require,  
472 including that of education, art, ornament, health, charity or  
473 amusement, cemeteries, parks or gardens, or the erection or  
474 maintenance of statues, monuments, buildings or other structures. [, or  
475 the encouragement of private commercial development, require.] Any  
476 lease of real or personal property or any interest therein, either as  
477 lessee or lessor, may be for such term or any extensions thereof and  
478 upon such other terms and conditions as have been approved by the  
479 municipality, including without limitation the power to bind itself to  
480 appropriate funds as necessary to meet rent and other obligations as  
481 provided in any such lease.

482 Sec. 11. Section 32-224 of the general statutes is repealed and the  
483 following is substituted in lieu thereof (*Effective from passage and*  
484 *applicable to property acquired on or after said date*):

485 (a) Any municipality which has a planning commission may, by  
486 vote of its legislative body, designate an implementing agency to  
487 exercise the powers granted under sections 32-220 to 32-234, inclusive.  
488 Any municipality may, with the approval of the commissioner,

489 designate a separate implementing agency for each municipal  
490 development project undertaken by such municipality pursuant to  
491 said sections.

492 (b) The implementing agency may initiate a municipal development  
493 project by preparing and submitting a development plan to the  
494 commissioner. Such plan shall meet an identified public need and  
495 include: (1) A legal description of the real property within the  
496 boundaries of the project area; (2) a description of the present  
497 condition and uses of such real property; (3) a description of the  
498 process utilized by the agency to prepare the plan along with  
499 alternative approaches considered to achieve project objectives; (4) a  
500 description of the types and locations of land uses or building uses  
501 proposed for the project area; [(4)] (5) a description of the types and  
502 locations of present and proposed streets, sidewalks and sanitary,  
503 utility and other facilities and the types and locations of other  
504 proposed project improvements; [(5)] (6) statements of the present and  
505 proposed zoning classification and subdivision status of the project  
506 area and the areas adjacent to the project area; [(6)] (7) a plan for  
507 relocating project area occupants; [(7)] (8) a financing plan; [(8)] (9) an  
508 administrative plan; [(9)] (10) an environmental analysis, marketability  
509 and proposed land use study, or building use study if required by the  
510 commissioner; [(10)] (11) appraisal reports and title searches if  
511 required by the commissioner; [(11)] (12) a description of the  
512 [economic] public benefit of the project, including, but not limited to,  
513 (A) the number of jobs which the implementing agency anticipates  
514 would be created or retained by the project, (B) the estimated property  
515 tax benefits, [and] (C) the number and types of existing housing units  
516 in the municipality in which the project would be located, and in  
517 contiguous municipalities, which would be available to employees  
518 filling such jobs, (D) a description of infrastructure improvements,  
519 including public access, facilities or use, (E) a description of any blight  
520 remediation or environmental remediation, (F) a description of any  
521 aesthetic improvements to be generated by the project, (G) a  
522 description of the project's role in increasing or sustaining market



523 value of land in the municipality, (H) a description of the project's role  
524 in assisting residents of the municipality to improve their standard of  
525 living, and (I) a statement of the project's role in maintaining or  
526 enhancing the competitiveness of the municipality; and [(12)] (13) a  
527 finding that (A) the land and buildings within the boundaries of the  
528 project area will be used principally for manufacturing or other  
529 economic base business purposes or business support services; (B) the  
530 plan is in accordance with the plan of development for the  
531 municipality, if any, adopted by its planning commission and the plan  
532 of development of the regional planning agency, if any, for the region  
533 within which the municipality is located; (C) the plan is not inimical to  
534 any state-wide planning program objectives of the state or state  
535 agencies as coordinated by the Secretary of the Office of Policy and  
536 Management; and (D) the project will contribute to the economic  
537 welfare of the municipality and the state and that to carry out and  
538 administer the project, public action under sections 32-220 to 32-234,  
539 inclusive, is required. The provisions of this subsection with respect to  
540 submission of a development plan to and approval by the  
541 commissioner and with respect to a finding that the plan is not  
542 inimical to any state-wide planning program objectives of the state or  
543 its agencies shall not apply to a project for which no financial  
544 assistance has been given and no application for financial assistance is  
545 to be made under section 32-223. Any plan which has been prepared  
546 under chapters 130, 132 or 588a may be submitted by the  
547 implementing agency to the legislative body of the municipality and to  
548 the commissioner in lieu of a plan initiated and prepared in accordance  
549 with this section, provided all other requirements of sections 32-220 to  
550 32-234, inclusive, for obtaining the approval of the commissioner of the  
551 development plan are satisfied. Any action taken in connection with  
552 the preparation and adoption of such plan shall be deemed effective to  
553 the extent such action satisfies the requirements of said sections.

554 (c) No plan shall be adopted unless the planning commission of the  
555 municipality finds that the plan is in accord with the plan of  
556 development, if any, for the municipality and the regional planning

557 agency, if any, organized under chapter 127 for the region within  
558 which such municipality is located finds that such plan is in accord  
559 with the plan of development, if any, for such region. If the regional  
560 planning agency fails to make a finding concerning the plan within  
561 thirty-five days of receipt thereof, by such agency, it shall be presumed  
562 that such agency does not disapprove of the plan. The implementing  
563 agency shall hold at least one public hearing on the plan and shall  
564 cause notice of the time, place, and subject of any public hearing to be  
565 published at least once in a newspaper of general circulation in the  
566 municipality not less than one week nor more than three weeks prior  
567 to the date of such public hearing. At least thirty-five days prior to the  
568 public hearing the redevelopment agency shall post the draft plan on  
569 the Internet web site of the redevelopment agency, if any. Upon  
570 adoption the implementing agency shall submit the plan to the  
571 legislative body of the municipality for approval or disapproval. Any  
572 approval by the implementing agency and legislative body of the  
573 municipality made under this section shall specifically provide for  
574 approval of any findings contained therein. After approval of the plan  
575 by the legislative body of the municipality, such plan shall be  
576 submitted to the commissioner for his approval. If the commissioner  
577 requires a substantial modification of the plan as a condition of  
578 approval, the plan shall be subject to a public hearing and approval by  
579 the implementing agency and the legislative body of the municipality  
580 in accordance with the provisions of this subsection.

581 (d) A development plan may be modified at any time by the  
582 implementing agency, provided, if modified after the lease or sale of  
583 real property in the project area, the lessees or purchasers of such real  
584 property or their successor or successors in interest affected by the  
585 proposed modification shall consent to such modification. If the  
586 proposed modification will substantially alter the development plan as  
587 previously approved, the modification shall be subject to the approval  
588 of the local legislative body of the municipality and the commissioner  
589 in the same manner as approval of the development plan. The  
590 municipality may, by vote of its legislative body, abandon the

591 development plan and convey such real property within the  
592 boundaries of the project area free of any restriction, obligation or  
593 procedure imposed by the plan subject to all other local and state laws,  
594 ordinances or regulations if after three years from the date of approval  
595 of the plan the implementing agency has not transferred by sale or  
596 lease all or any part of the real property acquired in the project area to  
597 any person in accordance with the development plan and no grant of  
598 financial assistance under sections 32-220 to 32-234, inclusive, has been  
599 given for such project other than for activities related to the planning  
600 of the project pursuant to section 32-222.

601 (e) The implementing agencies of two or more municipalities may,  
602 after approval by each legislative body thereof, jointly initiate a  
603 development project if the project area is to be located in one or more  
604 of such municipalities. Such implementing agencies, after approval by  
605 the commissioner of the development plan for the project if any state  
606 aid is to be requested under section 32-223, may enter into and amend  
607 subject to the approval of the commissioner, an agreement to jointly  
608 carry out the development plan. Such agreement may include  
609 provisions for furnishing municipal services to the project and sharing  
610 costs of and revenues from the project, including property tax and  
611 rental receipts. The development plan shall include a proposed form of  
612 the agreement to be entered into by the municipalities. Each  
613 municipality which is a party to an agreement may make  
614 appropriations and levy taxes in accordance with the provisions of the  
615 general statutes and may issue bonds in accordance with section 32-  
616 227 to further its obligations under the agreement.

617 (f) As used in this subsection, "public service facility" includes any  
618 sewer, pipe, main conduit, cable, wire, pole, tower, building or utility  
619 appliance owned or operated by an electric, gas, telephone, telegraph  
620 or water company. Whenever an implementing agency determines  
621 that the closing of any street or public right-of-way is provided for in a  
622 development plan adopted and approved in accordance with sections  
623 32-220 to 32-234, inclusive, or where the carrying out of such a  
624 development plan, including the construction of new improvements,

625 requires the temporary or permanent readjustment, relocation or  
626 removal of a public service facility from a street or public right-of-way,  
627 the implementing agency shall issue an appropriate order to the  
628 company owning or operating such facility. Such company shall  
629 permanently or temporarily readjust, relocate or remove the public  
630 service facility promptly in accordance with such order, provided an  
631 equitable share of the cost of such readjustment, relocation or removal,  
632 including the cost of installing and constructing a facility of equal  
633 capacity in a new location, shall be borne by the implementing agency.  
634 Such equitable share shall be fifty per cent of such cost after the  
635 deduction hereinafter provided. In establishing the equitable share of  
636 the cost to be borne by the implementing agency, there shall be  
637 deducted from the cost of the readjusted, relocated or removed  
638 facilities a sum based on a consideration of the value of materials  
639 salvaged from existing installations, the cost of the original installation,  
640 the life expectancy of the original facility and the unexpired term of  
641 such life use. The books and records of the company shall be made  
642 available for inspection by the implementing agency to determine the  
643 equitable share of the cost of such readjustment, relocation or removal.  
644 When any facility is removed from a street or public right-of-way to a  
645 private right-of-way, the implementing agency shall not pay for such  
646 private right-of-way. If the implementing agency and the company  
647 owning or operating such facility cannot agree upon the share of the  
648 cost to be borne by the implementing agency, such agency or the  
649 company may apply to the superior court for the judicial district  
650 within which the street or public right-of-way is situated, or, if the  
651 court is not in session, to any judge thereof, for a determination of the  
652 cost to be borne by the implementing agency. The court or the judge,  
653 after causing notice of the pendency of such application to be given to  
654 the other party, shall appoint a state referee to make such  
655 determination. The referee, having given at least ten days' notice to the  
656 interested parties of the time and place of the hearing, shall hear both  
657 parties, take such testimony as he may deem material and thereupon  
658 determine the amount of the cost to be borne by the implementing  
659 agency. The referee shall immediately report the amount to the court.

660 If the report is accepted by the court, such determination shall, subject  
661 to right of appeal as in civil actions, be conclusive upon such parties.

662 (g) After approval of the development plan pursuant to sections 32-  
663 220 to 32-234, inclusive, the implementing agency may by purchase,  
664 lease, exchange or gift acquire or rent real property necessary or  
665 appropriate for the project as identified in the development plan and  
666 real property and interests therein for rights-of-way and other  
667 easements to and from the project area. The implementing agency  
668 may, with the approval of the legislative body of the municipality, and  
669 in the name of the municipality, condemn in accordance with section  
670 8-128 to 8-133, inclusive, as amended by this act, any real property  
671 necessary or appropriate for the project as identified in the  
672 development plan, including real property and interests in land for  
673 rights-of-way and other easements to and from the project area.

674 Sec. 12. Subsection (b) of section 1-210 of the 2006 supplement to the  
675 general statutes is repealed and the following is substituted in lieu  
676 thereof (*Effective from passage*):

677 (b) Nothing in the Freedom of Information Act shall be construed to  
678 require disclosure of:

679 (1) Preliminary drafts or notes provided the public agency has  
680 determined that the public interest in withholding such documents  
681 clearly outweighs the public interest in disclosure;

682 (2) Personnel or medical files and similar files the disclosure of  
683 which would constitute an invasion of personal privacy;

684 (3) Records of law enforcement agencies not otherwise available to  
685 the public which records were compiled in connection with the  
686 detection or investigation of crime, if the disclosure of said records  
687 would not be in the public interest because it would result in the  
688 disclosure of (A) the identity of informants not otherwise known or the  
689 identity of witnesses not otherwise known whose safety would be  
690 endangered or who would be subject to threat or intimidation if their

691 identity was made known, (B) signed statements of witnesses, (C)  
692 information to be used in a prospective law enforcement action if  
693 prejudicial to such action, (D) investigatory techniques not otherwise  
694 known to the general public, (E) arrest records of a juvenile, which  
695 shall also include any investigatory files, concerning the arrest of such  
696 juvenile, compiled for law enforcement purposes, (F) the name and  
697 address of the victim of a sexual assault under section 53a-70, 53a-70a,  
698 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or  
699 impairing of morals under section 53-21, or of an attempt thereof, or  
700 (G) uncorroborated allegations subject to destruction pursuant to  
701 section 1-216;

702 (4) Records pertaining to strategy and negotiations with respect to  
703 pending claims or pending litigation to which the public agency is a  
704 party until such litigation or claim has been finally adjudicated or  
705 otherwise settled;

706 (5) (A) Trade secrets, which for purposes of the Freedom of  
707 Information Act, are defined as information, including formulas,  
708 patterns, compilations, programs, devices, methods, techniques,  
709 processes, drawings, cost data, or customer lists that (i) derive  
710 independent economic value, actual or potential, from not being  
711 generally known to, and not being readily ascertainable by proper  
712 means by, other persons who can obtain economic value from their  
713 disclosure or use, and (ii) are the subject of efforts that are reasonable  
714 under the circumstances to maintain secrecy; and

715 (B) Commercial or financial information given in confidence, not  
716 required by statute;

717 (6) Test questions, scoring keys and other examination data used to  
718 administer a licensing examination, examination for employment or  
719 academic examinations;

720 (7) The contents of real estate appraisals, engineering or feasibility  
721 estimates and evaluations made for or by an agency relative to the  
722 acquisition of property or to prospective public supply and

723 construction contracts, until such time as all of the property has been  
724 acquired or all proceedings or transactions have been terminated or  
725 abandoned, [provided the law of eminent domain shall not be affected  
726 by this provision] except that the provisions of this section shall not  
727 apply to such appraisals, estimates or evaluations made for or by the  
728 agency relative to the acquisition of property by eminent domain;

729 (8) Statements of personal worth or personal financial data required  
730 by a licensing agency and filed by an applicant with such licensing  
731 agency to establish the applicant's personal qualification for the  
732 license, certificate or permit applied for;

733 (9) Records, reports and statements of strategy or negotiations with  
734 respect to collective bargaining;

735 (10) Records, tax returns, reports and statements exempted by  
736 federal law or state statutes or communications privileged by the  
737 attorney-client relationship;

738 (11) Names or addresses of students enrolled in any public school or  
739 college without the consent of each student whose name or address is  
740 to be disclosed who is eighteen years of age or older and a parent or  
741 guardian of each such student who is younger than eighteen years of  
742 age, provided this subdivision shall not be construed as prohibiting the  
743 disclosure of the names or addresses of students enrolled in any public  
744 school in a regional school district to the board of selectmen or town  
745 board of finance, as the case may be, of the town wherein the student  
746 resides for the purpose of verifying tuition payments made to such  
747 school;

748 (12) Any information obtained by the use of illegal means;

749 (13) Records of an investigation or the name of an employee  
750 providing information under the provisions of section 4-61dd, as  
751 amended;

752 (14) Adoption records and information provided for in sections 45a-

753 746, 45a-750 and 45a-751;

754 (15) Any page of a primary petition, nominating petition,  
755 referendum petition or petition for a town meeting submitted under  
756 any provision of the general statutes or of any special act, municipal  
757 charter or ordinance, until the required processing and certification of  
758 such page has been completed by the official or officials charged with  
759 such duty after which time disclosure of such page shall be required;

760 (16) Records of complaints, including information compiled in the  
761 investigation thereof, brought to a municipal health authority pursuant  
762 to chapter 368e or a district department of health pursuant to chapter  
763 368f, until such time as the investigation is concluded or thirty days  
764 from the date of receipt of the complaint, whichever occurs first;

765 (17) Educational records which are not subject to disclosure under  
766 the Family Educational Rights and Privacy Act, 20 USC 1232g;

767 (18) Records, the disclosure of which the Commissioner of  
768 Correction, or as it applies to Whiting Forensic Division facilities of the  
769 Connecticut Valley Hospital, the Commissioner of Mental Health and  
770 Addiction Services, has reasonable grounds to believe may result in a  
771 safety risk, including the risk of harm to any person or the risk of an  
772 escape from, or a disorder in, a correctional institution or facility under  
773 the supervision of the Department of Correction or Whiting Forensic  
774 Division facilities. Such records shall include, but are not limited to:

775 (A) Security manuals, including emergency plans contained or  
776 referred to in such security manuals;

777 (B) Engineering and architectural drawings of correctional  
778 institutions or facilities or Whiting Forensic Division facilities;

779 (C) Operational specifications of security systems utilized by the  
780 Department of Correction at any correctional institution or facility or  
781 Whiting Forensic Division facilities, except that a general description  
782 of any such security system and the cost and quality of such system



783 may be disclosed;

784 (D) Training manuals prepared for correctional institutions and  
785 facilities or Whiting Forensic Division facilities that describe, in any  
786 manner, security procedures, emergency plans or security equipment;

787 (E) Internal security audits of correctional institutions and facilities  
788 or Whiting Forensic Division facilities;

789 (F) Minutes or recordings of staff meetings of the Department of  
790 Correction or Whiting Forensic Division facilities, or portions of such  
791 minutes or recordings, that contain or reveal information relating to  
792 security or other records otherwise exempt from disclosure under this  
793 subdivision;

794 (G) Logs or other documents that contain information on the  
795 movement or assignment of inmates or staff at correctional institutions  
796 or facilities; and

797 (H) Records that contain information on contacts between inmates,  
798 as defined in section 18-84, and law enforcement officers;

799 (19) Records when there are reasonable grounds to believe  
800 disclosure may result in a safety risk, including the risk of harm to any  
801 person, any government-owned or leased institution or facility or any  
802 fixture or appurtenance and equipment attached to, or contained in,  
803 such institution or facility, except that such records shall be disclosed  
804 to a law enforcement agency upon the request of the law enforcement  
805 agency. Such reasonable grounds shall be determined (A) with respect  
806 to records concerning any executive branch agency of the state or any  
807 municipal, district or regional agency, by the Commissioner of Public  
808 Works, after consultation with the chief executive officer of the agency;  
809 (B) with respect to records concerning Judicial Department facilities,  
810 by the Chief Court Administrator; and (C) with respect to records  
811 concerning the Legislative Department, by the executive director of the  
812 Joint Committee on Legislative Management. As used in this section,  
813 "government-owned or leased institution or facility" includes, but is

814 not limited to, an institution or facility owned or leased by a public  
815 service company, as defined in section 16-1, as amended, a certified  
816 telecommunications provider, as defined in section 16-1, as amended, a  
817 water company, as defined in section 25-32a, or a municipal utility that  
818 furnishes electric, gas or water service, but does not include an  
819 institution or facility owned or leased by the federal government, and  
820 "chief executive officer" includes, but is not limited to, an agency head,  
821 department head, executive director or chief executive officer. Such  
822 records include, but are not limited to:

823 (i) Security manuals or reports;

824 (ii) Engineering and architectural drawings of government-owned  
825 or leased institutions or facilities;

826 (iii) Operational specifications of security systems utilized at any  
827 government-owned or leased institution or facility, except that a  
828 general description of any such security system and the cost and  
829 quality of such system, may be disclosed;

830 (iv) Training manuals prepared for government-owned or leased  
831 institutions or facilities that describe, in any manner, security  
832 procedures, emergency plans or security equipment;

833 (v) Internal security audits of government-owned or leased  
834 institutions or facilities;

835 (vi) Minutes or records of meetings, or portions of such minutes or  
836 records, that contain or reveal information relating to security or other  
837 records otherwise exempt from disclosure under this subdivision;

838 (vii) Logs or other documents that contain information on the  
839 movement or assignment of security personnel at government-owned  
840 or leased institutions or facilities;

841 (viii) Emergency plans and emergency recovery or response plans;  
842 and

843 (ix) With respect to a water company, as defined in section 25-32a,  
844 that provides water service: Vulnerability assessments and risk  
845 management plans, operational plans, portions of water supply plans  
846 submitted pursuant to section 25-32d that contain or reveal  
847 information the disclosure of which may result in a security risk to a  
848 water company, inspection reports, technical specifications and other  
849 materials that depict or specifically describe critical water company  
850 operating facilities, collection and distribution systems or sources of  
851 supply;

852 (20) Records of standards, procedures, processes, software and  
853 codes, not otherwise available to the public, the disclosure of which  
854 would compromise the security or integrity of an information  
855 technology system;

856 (21) The residential, work or school address of any participant in the  
857 address confidentiality program established pursuant to sections 54-  
858 240 to 54-240o, inclusive;

859 (22) The electronic mail address of any person that is obtained by  
860 the Department of Transportation in connection with the  
861 implementation or administration of any plan to inform individuals  
862 about significant highway or railway incidents.

863 Sec. 13. Section 8-268 of the 2006 supplement to the general statutes  
864 is repealed and the following is substituted in lieu thereof (*Effective*  
865 *from passage*):

866 (a) Whenever a program or project undertaken by a state agency or  
867 under the supervision of a state agency will result in the displacement  
868 of any person on or after July 6, 1971, the head of such state agency  
869 shall make payment to any displaced person, upon proper application  
870 as approved by such agency head, for (1) actual reasonable expenses in  
871 moving himself, his family, business, farm operation or other personal  
872 property, (2) actual direct losses of tangible personal property as a  
873 result of moving or discontinuing a business or farm operation, but not  
874 to exceed an amount equal to the reasonable expenses that would have

875 been required to relocate such property, as determined by the state  
876 agency, and (3) actual reasonable expenses in searching for a  
877 replacement business or farm, provided, whenever any tenant in any  
878 dwelling unit is displaced as the result of the enforcement of any code  
879 to which this section is applicable by any town, city or borough or  
880 agency thereof, the landlord of such dwelling unit shall be liable for  
881 any payments made by such town, city or borough pursuant to this  
882 section or by the state pursuant to subsection (b) of section 8-280, and  
883 the town, city or borough or the state may place a lien on any real  
884 property owned by such landlord to secure repayment to the town,  
885 city or borough or the state of such payments, which lien shall have the  
886 same priority as and shall be filed, enforced and discharged in the  
887 same manner as a lien for municipal taxes under chapter 205.

888 (b) Any displaced person eligible for payments under subsection (a)  
889 of this section who is displaced from a dwelling and who elects to  
890 accept the payments authorized by this subsection in lieu of the  
891 payments authorized by subsection (a) of this section may receive a  
892 moving expense allowance, determined according to a schedule  
893 established by the state agency, not to exceed three hundred dollars  
894 and a dislocation allowance of two hundred dollars.

895 (c) Any displaced person eligible for payments under subsection (a)  
896 of this section who is displaced from his place of business or from his  
897 farm operation and who elects to accept the payment authorized by  
898 this subsection in lieu of the payment authorized by subsection (a) of  
899 this section, may receive a fixed payment in an amount equal to the  
900 average annual net earnings of the business or farm operation, except  
901 that such payment shall not be less than two thousand five hundred  
902 dollars nor more than ten thousand dollars. In the case of a business no  
903 payment shall be made under this subsection unless the state agency is  
904 satisfied that the business (1) cannot be relocated without a substantial  
905 loss of its existing patronage, and (2) is not a part of a commercial  
906 enterprise having at least one other establishment not being acquired  
907 by the state, which is engaged in the same or similar business. For  
908 purposes of this subsection, the term "average annual net earnings"

909 means one half of any net earnings of the business or farm operation,  
910 before federal, state and local income taxes, during the two taxable  
911 years immediately preceding the taxable year in which such business  
912 or farm operation moves from the real property acquired for such  
913 project, or during such other period as such agency determines to be  
914 more equitable for establishing such earnings, and includes any  
915 compensation paid by the business or farm operation to the owner, his  
916 spouse or his dependents during such period.

917 (d) Notwithstanding the provisions of this section, the head of the  
918 state agency shall make relocation payments as provided under the  
919 federal Uniform Relocation Assistance and Real Property Acquisition  
920 Policies Act of 1970, 42 USC 4601 et seq. and any subsequent  
921 amendments thereto and regulations promulgated thereunder if  
922 payments under said act would be greater than payments under this  
923 section.

924 Sec. 14. (NEW) (*Effective July 1, 2006*) As used in this section and  
925 sections 16 to 23, inclusive, of this act: (1) "Constitutional taking" or  
926 "taking" means an action by the state, a municipality or political  
927 subdivision of the state or a municipality that results in a taking of  
928 private property by eminent domain requiring compensation to the  
929 owner of the property pursuant to: (A) The Fifth or Fourteenth  
930 Amendments to the Constitution of the United States; or (B) article I,  
931 Section 11 of the State Constitution; and (2) "takings law" means the  
932 provisions of the federal and state constitutions, case law interpreting  
933 such provisions, and any relevant statutory provisions that require a  
934 governmental unit to compensate a private property owner for a  
935 constitutional taking.

936 Sec. 15. (NEW) (*Effective July 1, 2006*) (a) There is established an  
937 Office of Ombudsman for Property Owners which shall be within the  
938 Office of Policy and Management for administrative purposes only.  
939 The Office of Ombudsman for Property Owners shall be under the  
940 direction of an Ombudsman for Property Owners who shall be  
941 appointed in accordance with section 16 of this act. The office shall not

942 appoint any other employees for the discharge of the duties of the  
943 office.

944 (b) The Office of Ombudsman for Property Owners shall:

945 (1) Develop and maintain expertise in and understanding of (A)  
946 provisions of the federal and state constitutions governing the taking  
947 of private property and provisions of state law authorizing a state or  
948 municipal agency to take private property, and (B) the case law  
949 interpreting such provisions;

950 (2) Assist state and municipal agencies with the power of eminent  
951 domain in applying constitutional and statutory provisions concerning  
952 takings;

953 (3) At the request of a state or municipal agency with the power of  
954 eminent domain, provide assistance in analyzing actions that have  
955 potential takings implications;

956 (4) Advise private property owners who have a legitimate potential  
957 or actual takings claim against a state or municipal agency with the  
958 power of eminent domain;

959 (5) Identify state or local governmental actions that have potential  
960 takings implications and, if appropriate, advise the appropriate  
961 governmental agency about such implications;

962 (6) Provide information to private citizens, civic groups and other  
963 interested parties about takings law and their rights with respect to  
964 takings;

965 (7) If requested to do so by a private property owner, mediate or  
966 conduct or arrange arbitration of disputes between private property  
967 owners and governmental agencies involving takings and disputes  
968 about relocation assistance;

969 (8) Assist a private property owner with respect to a dispute  
970 involving the effect of municipal regulation of the use and occupancy

971 of real property, except that such assistance shall not include  
972 mediation and arbitration unless requested under subdivision (7) of  
973 this subsection; and

974 (9) Recommend to the General Assembly changes that, in the  
975 opinion of the Ombudsman for Property Owners, should be made in  
976 the laws relating to takings.

977 Sec. 16. (NEW) (*Effective July 1, 2006*) The Ombudsman for Property  
978 Owners shall be appointed by the Governor in accordance with  
979 sections 4-5 to 4-8, inclusive, of the general statutes, as amended by  
980 this act. The Ombudsman for Property Owners shall be an elector of  
981 the state and shall be a person with expertise and experience in the  
982 field of real estate sales, real estate appraisals or land use regulation.  
983 The Ombudsman for Property Owners shall not have been employed  
984 or served in an official capacity with respect to any eminent domain  
985 procedure within one year of appointment.

986 Sec. 17. (NEW) (*Effective July 1, 2006*) (a) The Ombudsman for  
987 Property Owners shall provide an arbitration procedure for the  
988 settlement of disputes between private property owners and  
989 governmental agencies involving takings and disputes about  
990 relocation assistance.

991 (b) Any private property owner may bring a dispute to an  
992 arbitration panel by calling a toll-free telephone number designated by  
993 the Ombudsman for Property Owners or by requesting an arbitration  
994 hearing in writing. The property owner shall file, on forms prescribed  
995 by the Ombudsman for Property Owners, any information the  
996 Ombudsman for Property Owners deems relevant to the resolution of  
997 the dispute.

998 (c) (1) The Ombudsman for Property Owners shall conduct an initial  
999 review of the request for arbitration and determine whether the  
1000 owners dispute should be accepted or rejected for arbitration based on  
1001 criteria established by regulations adopted under section 21 of this act.  
1002 If the Ombudsman for Property Owners declines to arbitrate or

1003 appoint an arbitrator, the Ombudsman for Property Owners shall issue  
1004 a written statement to the applicant specifying the reasons for such  
1005 decision.

1006 (2) The Ombudsman for Property Owners may appoint a panel to  
1007 arbitrate a dispute, on the initiative of the Ombudsman for Property  
1008 Owners or upon agreement of both parties, when: (A) Either party  
1009 objects to the Ombudsman for Property Owners serving as the  
1010 arbitrator and agrees to pay for the services of another arbitrator; (B)  
1011 the Ombudsman for Property Owners declines to arbitrate the dispute  
1012 for a reason other than those stated in subdivision (8) of subsection (b)  
1013 of section 15 of this act and one or both parties are willing to pay for  
1014 the services of another arbitrator; or (C) the Ombudsman for Property  
1015 Owners determines that it is appropriate to appoint another person to  
1016 arbitrate the dispute with no charge to the parties for the services of  
1017 the appointed arbitrator. In appointing another person to arbitrate a  
1018 dispute, the Ombudsman for Property Owners shall appoint an  
1019 arbitrator who is agreeable to both parties or agreeable to the party  
1020 paying for the arbitrator and the Ombudsman for Property Owners.

1021 (3) Upon acceptance of a dispute for arbitration, the Ombudsman  
1022 for Property Owners shall notify each state or municipal agency  
1023 participating in the taking of the filing of a request for arbitration. The  
1024 filer and each such agency shall submit, in writing, on a form  
1025 prescribed by the Ombudsman for Property Owners, any information  
1026 the Ombudsman for Property Owners deems relevant to the resolution  
1027 of the dispute.

1028 (4) The Ombudsman for Property Owners shall investigate, gather  
1029 and organize all information necessary for a fair and timely decision in  
1030 each dispute. The Ombudsman for Property Owners may issue  
1031 subpoenas on behalf of any arbitration panel to compel the attendance  
1032 of witnesses and the production of documents, papers and records  
1033 relevant to the dispute. The Ombudsman for Property Owners may  
1034 forward a copy of all written testimony, including all documentary  
1035 evidence, to an independent technical expert or to any person having a



1036 degree or other credentials from a nationally recognized organization  
1037 or institution attesting to relevant expertise, who shall review such  
1038 material and be available to advise and consult with the Ombudsman  
1039 for Property Owners or arbitration panel. The Ombudsman for  
1040 Property Owners or arbitration panel shall, not later than sixty days  
1041 after the date the request is filed under subsection (b) of this section,  
1042 render a decision based on the information gathered and disclose the  
1043 findings and the reasons therefor to the parties involved.

1044 (d) The property owner and state or municipal agency may agree in  
1045 advance of arbitration that the arbitration shall be binding and that no  
1046 de novo trial by a court may occur.

1047 (e) Arbitration by or through the Ombudsman for Property Owners  
1048 is not required before bringing legal action to adjudicate any claim.

1049 (f) The lack of arbitration by or through the Ombudsman for  
1050 Property Owners does not constitute, and may not be construed to  
1051 constitute, a failure to exhaust available administrative remedies or as  
1052 a bar to any legal action. Not more than thirty days after the arbitrator  
1053 issues a final award, any party may submit the award or any issue  
1054 upon which the award is based to the court for de novo review, except  
1055 as provided in subsection (d) of this section.

1056 (g) The filing with the Ombudsman for Property Owners of a  
1057 request for arbitration of a constitutional taking issue does not stay any  
1058 land use decision by a municipal agency.

1059 (h) The Ombudsman for Property Owners may not be compelled to  
1060 testify in a civil action filed with regard to the subject matter of any  
1061 review or arbitration by the ombudsman.

1062 (i) Evidence of a review by the Ombudsman for Property Owners  
1063 and the opinions, writings, findings and determinations of the  
1064 Ombudsman for Property Owners shall not be admissible as evidence  
1065 in any action subsequently brought in court and dealing with the same  
1066 dispute.

1067 (j) The Ombudsman for Property Owners may not represent private  
1068 property owners, the state or any municipality in court or in  
1069 administrative proceedings under chapter 54 of the general statutes.

1070 Sec. 18. (NEW) (*Effective July 1, 2006*) Each public agency, as defined  
1071 in section 1-200 of the general statutes, and any entity in this state with  
1072 the power of eminent domain shall comply with reasonable requests of  
1073 the Office of Ombudsman for Property Owners for information and  
1074 assistance.

1075 Sec. 19. (NEW) (*Effective July 1, 2006*) No Ombudsman for Property  
1076 owners may:

1077 (1) Be employed by, or hold a position on, any public agency, as  
1078 defined in section 1-200 of the general statutes, or other entity with the  
1079 power of eminent domain;

1080 (2) Receive or have the right to receive, directly or indirectly,  
1081 remuneration under a compensation arrangement with respect to an  
1082 eminent domain procedure; or

1083 (3) Knowingly accept employment with a public agency or other  
1084 entity with the power of eminent domain for a period of one year  
1085 following termination of that person's services with the Office of  
1086 Ombudsman for Property Owners.

1087 Sec. 20. (NEW) (*Effective July 1, 2006*) (a) The Office of Ombudsman  
1088 for Property Owners may apply for and accept grants, gifts and  
1089 bequests of funds from other states, federal and interstate agencies and  
1090 independent authorities and private firms, individuals and  
1091 foundations, for the purpose of carrying out its responsibilities.

1092 (b) There is established, within the General Fund, an Ombudsman  
1093 for Property Owners account that shall be a separate nonlapsing  
1094 account. Any funds received under this section shall, upon deposit in  
1095 the General Fund, be credited to said account and may be used by the  
1096 Office of Ombudsman for Property Owners in the performance of its

1097 duties.

1098       Sec. 21. (NEW) (*Effective July 1, 2006*) The Ombudsman for Property  
1099 Owners shall adopt regulations, in accordance with chapter 54 of the  
1100 general statutes, to implement sections 16 to 23, inclusive, of this act  
1101 and section 4-5 of the general statutes, as amended by this act. Such  
1102 regulations shall establish criteria to be used by the Ombudsman for  
1103 Property Owners in determinations accepting or rejecting a dispute for  
1104 arbitration in accordance with section 17 of this act.

1105       Sec. 22. (NEW) (*Effective July 1, 2006*) Prior to proceeding with the  
1106 acquisition of real property by eminent domain under any provisions  
1107 of the general statutes, the agency proposing to acquire the real  
1108 property shall: (1) Before initiating an eminent domain action, make a  
1109 reasonable effort to negotiate with the property owner for the purchase  
1110 of the property; and (2) as early in the negotiation process for the real  
1111 property as practicable, but no later than fourteen days before the  
1112 filing of an eminent domain action, unless the court for good cause  
1113 allows a shorter period before filing: (A) Advise the property owner of  
1114 the owner's rights to mediation and arbitration under section 23 of this  
1115 act, including the name and current telephone number of the  
1116 Ombudsman for Property Owners, established pursuant to sections 16  
1117 to 23, inclusive, of this act, and (B) provide the property owner with a  
1118 written statement explaining that oral representations or promises  
1119 made during the negotiation process are not binding upon the person  
1120 seeking to acquire the property by eminent domain.

1121       Sec. 23. (NEW) (*Effective July 1, 2006*) (a) In any dispute between an  
1122 agency proposing to acquire real property by eminent domain and a  
1123 private property owner, the private property owner may submit the  
1124 dispute for mediation or arbitration to the Ombudsman for Property  
1125 Owners under sections 16 to 23, inclusive, of this act.

1126       (b) An action submitted to the Ombudsman for Property Owners  
1127 under authority of this section shall not bar or stay any action for  
1128 occupancy of premises which are the subject of the dispute.

1129 (c) A mediator or arbitrator, acting at the request of the property  
1130 owner under subdivision (2) of subsection (c) of section 17 of this act,  
1131 has standing in an action brought in any court concerning the real  
1132 property that is the subject of the dispute to file with such court a  
1133 motion to stay the action during the pendency of the mediation or  
1134 arbitration. A mediator or arbitrator may not file such a motion unless  
1135 the mediator or arbitrator certifies at the time of filing the motion that  
1136 a stay is reasonably necessary to reach a resolution of the case through  
1137 mediation or arbitration. If a stay is granted and the order granting the  
1138 stay does not specify when the stay terminates, the mediator or  
1139 arbitrator shall file with the district court a motion to terminate the  
1140 stay not more than thirty days after: (1) The resolution of the dispute  
1141 through mediation; (2) the issuance of a final arbitration award; or (3) a  
1142 determination by the mediator or arbitrator that mediation or  
1143 arbitration is not appropriate.

1144 (d) The private property owner or displaced person may request  
1145 that the mediator or arbitrator authorize an additional appraisal. If the  
1146 mediator or arbitrator determines that an additional appraisal is  
1147 reasonably necessary to reach a resolution of the case, the mediator or  
1148 arbitrator may: (1) Have an additional appraisal of the property  
1149 prepared by an independent appraiser; and (2) require the agency  
1150 proposing to acquire the property to pay the costs of the first  
1151 additional appraisal.

1152 Sec. 24. Section 4-5 of the general statutes is repealed and the  
1153 following is substituted in lieu thereof (*Effective July 1, 2006*):

1154 As used in sections 4-6, 4-7 and 4-8, the term "department head"  
1155 means Secretary of the Office of Policy and Management,  
1156 Commissioner of Administrative Services, Commissioner of Revenue  
1157 Services, Banking Commissioner, Commissioner of Children and  
1158 Families, Commissioner of Consumer Protection, Commissioner of  
1159 Correction, Commissioner of Economic and Community Development,  
1160 State Board of Education, Commissioner of Emergency Management  
1161 and Homeland Security, Commissioner of Environmental Protection,

1162 Commissioner of Agriculture, Commissioner of Public Health,  
1163 Insurance Commissioner, Labor Commissioner, Liquor Control  
1164 Commission, Commissioner of Mental Health and Addiction Services,  
1165 Commissioner of Public Safety, Commissioner of Social Services,  
1166 Commissioner of Mental Retardation, Commissioner of Motor  
1167 Vehicles, Commissioner of Transportation, Commissioner of Public  
1168 Works, Commissioner of Veterans' Affairs, Commissioner of Health  
1169 Care Access, Chief Information Officer, the chairperson of the Public  
1170 Utilities Control Authority, the executive director of the Board of  
1171 Education and Services for the Blind, [and] the executive director of  
1172 the Connecticut Commission on Culture and Tourism and the  
1173 Ombudsman for Property Owners.

1174 Sec. 25. Subsection (b) of section 12-62a of the general statutes is  
1175 repealed and the following is substituted in lieu thereof (*Effective*  
1176 *October 1, 2006, and applicable to assessment years commencing on or after*  
1177 *October 1, 2006*):

1178 (b) Each such municipality shall assess all property for purposes of  
1179 the local property tax at a uniform rate of seventy per cent of present  
1180 true and actual value, as determined under section 12-63. Any  
1181 municipality with a population of more than eighty thousand, by  
1182 ordinance adopted by its legislative body, may (1) classify real estate  
1183 as (A) land or land exclusive of buildings, or (B) buildings on land, and  
1184 (2) establish a different rate of property tax for each class, provided the  
1185 higher rate shall apply to land or land exclusive of buildings. As used  
1186 in this subsection, the term "real estate" does not include farm land,  
1187 forest land and open space land as such terms are defined in section  
1188 12-107b. The provisions of this subsection shall not be construed to  
1189 authorize a municipality to classify real property for purposes of the  
1190 local property tax based on the use of such property, except as  
1191 provided in the general statutes or any special act.

1192 Sec. 26. (*Effective July 1, 2006*) The sum of one hundred fifty  
1193 thousand dollars is appropriated to the Secretary of the Office of  
1194 Policy and Management, from the General Fund, for the fiscal year

1195 ending June 30, 2007, for the purposes of sections 15 to 23, inclusive, of  
 1196 this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to property acquired on or after said date</i>	8-125
Sec. 2	<i>from passage and applicable to property acquired on or after said date</i>	8-127
Sec. 3	<i>from passage and applicable to property acquired on or after said date</i>	8-128
Sec. 4	<i>from passage and applicable to property acquired on or after said date</i>	8-129
Sec. 5	<i>from passage and applicable to property acquired on or after said date</i>	8-187
Sec. 6	<i>from passage and applicable to property acquired on or after said date</i>	8-189
Sec. 7	<i>from passage and applicable to property acquired on or after said date</i>	8-191
Sec. 8	<i>from passage and applicable to property acquired on or after said date</i>	8-193
Sec. 9	<i>July 1, 2006</i>	New section

Sec. 10	<i>from passage and applicable to property acquired on or after said date</i>	7-148(c)(3)(A)
Sec. 11	<i>from passage and applicable to property acquired on or after said date</i>	32-224
Sec. 12	<i>from passage</i>	1-210(b)
Sec. 13	<i>from passage</i>	8-268
Sec. 14	<i>July 1, 2006</i>	New section
Sec. 15	<i>July 1, 2006</i>	New section
Sec. 16	<i>July 1, 2006</i>	New section
Sec. 17	<i>July 1, 2006</i>	New section
Sec. 18	<i>July 1, 2006</i>	New section
Sec. 19	<i>July 1, 2006</i>	New section
Sec. 20	<i>July 1, 2006</i>	New section
Sec. 21	<i>July 1, 2006</i>	New section
Sec. 22	<i>July 1, 2006</i>	New section
Sec. 23	<i>July 1, 2006</i>	New section
Sec. 24	<i>July 1, 2006</i>	4-5
Sec. 25	<i>October 1, 2006, and applicable to assessment years commencing on or after October 1, 2006</i>	12-62a(b)
Sec. 26	<i>July 1, 2006</i>	New section

**PD**      **Joint Favorable Subst.**